

**PUBLIC UTILITIES COMMISSION**

505 VANNES AVENUE

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April 13, 2022

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Ratesetting**TO PARTIES OF RECORD IN APPLICATION 21-08-012:**

This is the proposed decision of Administrative Law Judge O'Rourke. Until and unless the Commission hears the item and votes to approve it, the proposed decision has no legal effect. This item may be heard, at the earliest, at the Commission's May 19, 2022 Business Meeting. To confirm when the item will be heard, please see the Business Meeting agenda, which is posted on the Commission's website 10 days before each Business Meeting.

Parties of record may file comments on the proposed decision as provided in Rule 14.3 of the Commission's Rules of Practice and Procedure.

The Commission may hold a Ratesetting Deliberative Meeting to consider this item in closed session in advance of the Business Meeting at which the item will be heard. In such event, notice of the Ratesetting Deliberative Meeting will appear in the Daily Calendar, which is posted on the Commission's website. If a Ratesetting Deliberative Meeting is scheduled, *ex parte* communications are prohibited pursuant to Rule 8.2(c)(4).

/s/ ANNE E SIMON

Anne E. Simon

Chief Administrative Law Judge

AES:smt

Attachment

Decision **PROPOSED DECISION OF ALJ O'ROURKE** (Mailed 4/13/22)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Cityside Networks, Inc. for a certificate of public convenience and necessity to provide full facilities-based and resold competitive local exchange service throughout the service territories of Pacific Bell Telephone Company, Frontier California, Inc., Frontier Communications of the Southwest, Inc., Consolidated Communications of California Company, and Citizens Telecommunications Company of California, Inc. and full facilities-based and resold interexchange services on a statewide basis.

Application 21-08-012

**DECISION GRANTING CITYSIDE NETWORKS, INC. A CERTIFICATE
OF PUBLIC CONVENIENCE AND NECESSITY IN ORDER TO
PROVIDE FULL FACILITIES-BASED AND RESOLD
COMPETITIVE LOCAL EXCHANGE SERVICES
AND FULL FACILITIES-BASED AND
RESOLD INTEREXCHANGE SERVICES**

TABLE OF CONTENTS

Title	Page
DECISION GRANTING CITYSIDE NETWORKS, INC. A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY IN ORDER TO PROVIDE FULL FACILITIES-BASED AND RESOLD COMPETITIVE LOCAL EXCHANGE SERVICES AND FULL FACILITIES-BASED AND RESOLD INTEREXCHANGE SERVICES.....	1
Summary	2
1. Background	2
2. Jurisdiction.....	3
3. California Environmental Quality Act (CEQA)	4
4. Financial Qualifications.....	8
5. Technical Qualifications	9
6. Detariffed Status	11
7. Map of Service Territory	11
8. Rule 3.1(i) Statement	11
9. Expected Customer Base	12
10. Request for Treatment as a Non-dominant	12
Interexchange Carrier	12
11. Request for Exemption from the Requirement	12
to Keep Books and Records in Accordance	12
with the Uniform System of Accounts	13
12. Safety Considerations	13
13. Conclusion.....	13
14. Request to File Under Seal	15
15. Comments on Draft Decision	15
16. Assignment of Proceeding	15
Findings of Fact	15
Conclusions of Law	17
ORDER.....	19

ATTACHMENT A – Tariff Deficiencies

ATTACHMENT B - Requirements Applicable to Competitive Local Exchange Carriers and Interexchange Carriers

ATTACHMENT C- Annual Report

ATTACHMENT D – Calendar Year Affiliate Transaction Report

**DECISION GRANTING CITYSIDE NETWORKS, INC. A CERTIFICATE
OF PUBLIC CONVENIENCE AND NECESSITY IN ORDER TO
PROVIDE FULL FACILITIES-BASED AND RESOLD
COMPETITIVE LOCAL EXCHANGE SERVICES
AND FULL FACILITIES-BASED AND
RESOLD INTEREXCHANGE SERVICES**

Summary

Pursuant to Public Utilities Code § 1001, we grant Cityside Networks, Inc. a certificate of public convenience and necessity to provide full facilities-based and resold competitive local exchange services and full facilities-based and resold interexchange services in California subject to the terms and conditions set forth in the Ordering Paragraphs.

This proceeding is closed.

1. Background

On August 19, 2021, Cityside Networks, Inc. (Cityside), a California corporation, filed an application for a certificate of public convenience and necessity (CPCN) to provide full facilities-based and resold competitive local exchange services in the service territories of Pacific Bell Telephone Company d/b/a AT&T California (AT&T California), Frontier California Inc. (Frontier California), Frontier Communications of the Southwest, Inc., Citizens Telecommunications Company of California, Inc. d/b/a Frontier Communications of California (Frontier Communications), and Consolidated Communications of California Company (Consolidated Communications, formerly SureWest Telephone) and facilities-based and resold interexchange services throughout California.

Cityside proposes to provide competitive local exchange services and interexchange services to business customers via fiber optic communications network infrastructure as well as resale services.

Cityside's principal place of business is located at 550 West B Street, 4th Floor, San Diego, California 92101.

There were no protests or responses filed in response to Cityside's application.

A prehearing conference was held on December 2, 2021 to address issues of law and fact, determine the need for hearing, set the schedule for resolving the matter, and address other matters as necessary. The assigned Administrative Law Judge (ALJ) issued a ruling requesting information on December 6, 2021, to which Cityside responded on December 7, 2021, and to which it provided an amended response on December 8, 2021. The assigned ALJ issued another ruling requesting supplemental information on December 10, 2021, to which Cityside responded on December 24, 2021, and to which it provided a supplemental response on December 27, 2021.

The Assigned Commissioner's Scoping Memo and Ruling (Scoping Memo) was issued on January 31, 2022. The Scoping Memo determined that evidentiary hearings were not needed.

2. Jurisdiction

Public Utilities Code (Pub. Util. Code) § 216(a) defines the term "Public utility" to include a "telephone corporation," which in turn is defined in Pub. Util. Code § 234(a) as "every corporation or person owning, controlling, operating, or managing any telephone line for compensation within this state."

Cityside proposes to provide competitive local exchange services and interexchange services to business customers via fiber optic communications network infrastructure as well as resale services.

Cityside is a telephone corporation and a public utility subject to our jurisdiction.

Cityside provided certification that it is a Common Carrier as defined by § 153 of the Federal Telecommunications Act of 1996 (Act) eligible to interconnect with the public switched telephone network pursuant to § 251 and § 252 of the Act, and that if granted a CPCN, it will operate as a telephone corporation under Pub. Util. Code § 234(a) and obey the Pub. Util. Code and all California Public Utilities Commission (Commission) rules, decisions, and orders applicable to telephone corporations.

3. California Environmental Quality Act (CEQA)

Pursuant to CEQA and Rule 2.4¹ of the Commission's Rules of Practice and Procedure, the Commission examines projects to determine any potential environmental impacts in order that adverse effects are avoided and environmental quality is restored or enhanced to the fullest extent possible under CEQA.

In its Application, Proponent's Environmental Assessment (PEA), and December 24, 2021 response to a December 10, 2021 ALJ Ruling, Cityside states that its proposed construction activities will generally include the installation of facilities such as underground conduit and fiber optic cabling, and installations of above-ground structures such as poles.

These activities may fall within the following classes of projects that are exempt from CEQA and for which neither an Environmental Impact Report nor a Negative Declaration is required.

- Class 1 Exemption: operation, repair, maintenance, leasing or minor alteration of existing public or private structures and facilities, with negligible or no expansion of an existing

¹ Unless otherwise noted, items labeled "Rule" are from the Commission's Rules of Practice and Procedure.

use. This includes existing facilities used to provide public utility services. (14 CCR § 15301.)

- Class 3 Exemption: construction including water main, sewage, electrical, gas and *other utility extensions of reasonable length* to serve such construction. This includes the construction of limited numbers of new small facilities or utility extensions. (14 CCR § 15303.)
- Class 4 Exemption: minor public or private alterations in the condition of land, water, and/or vegetation which do not involve removal of healthy, mature, scenic trees except for forestry and agricultural purposes, and the filling of earth into previously excavated land with material compatible with the natural features of the site, and minor trenching and backfilling where the surface is restored. (14 CCR § 15304.)
- Class 32 Exemption: small scale in-fill development that meets specified criteria. (14 CCR § 15332.)

Cityside's proposed activities involve construction of reasonably short utility extensions. As discussed above, in order to provide its service, Cityside states it will install its fiber optic cable and related equipment on existing or new poles and underground conduit. Exemption of these activities is consistent with Commission precedent. Cityside's proposed new construction activities are similar to those undertaken by other carriers that we have decided are categorically exempt from CEQA. *See, e.g.,* Decision (D.) 06-04-063 (*ClearLinx Network Corporation*); D.06-04-067 (*CA-CLEC LLC*).

Cityside requests approval to utilize a procedure for expedited review of its projects once it is aware of a specific site(s) in which it plans construction. The expedited review procedure has been approved for other carriers. During this process, Commission staff confirms that the proposed construction is indeed exempt from formal CEQA review. By establishing this expedited review

process, we are able to review the information on a specific project to confirm that it is categorically exempt from CEQA.

Similar to the procedure approved for other carriers, the following procedure will be used to obtain Commission approval of Cityside's claimed CEQA exemptions once construction project specifics are known:

- Cityside will provide the Commission's Energy Division with:
- A detailed description of the proposed project, including:
 - Customer(s) to be served;
 - The precise location of the proposed construction project; and
 - Regional and local site maps.
- A description of the environmental setting, to include at a minimum:
 - Cultural, historical, and paleontological resources;
 - Biological resources; and
 - Current land use and zoning.
- A construction workplan, to include:
 - Commission Preconstruction Survey Checklist – Archaeological Resources;
 - Commission Preconstruction Survey Checklist – Biological Resources;
 - A detailed schedule of construction activities, including site restoration activities;
 - A description of construction/installation techniques;
 - A list of other agencies contacted with respect to siting, land use planning, and environmental resource issues, including contact information; and
- A list of permits required for the proposed project.

- A statement of the CEQA exemption(s) applicable to the proposed project; and
- Documentation and factual evidence sufficient to support a finding that the claimed exemption(s) is (are) applicable.
- The Energy Division will review Cityside's submission for the proposed project to confirm that the claimed exemption(s) from CEQA are applicable.
- Within 21 days from the date of Cityside's submittal, the Energy Division will issue either:
- A Notice to Proceed and file a Notice of Exemption with the State Clearinghouse, Office of Planning and Research, or
- A letter of denial stating the specific reasons why the claimed exemption(s) are not applicable to the proposed project.

We have reviewed the application, the PEA, and supplement and find that:

- Cityside's proposed facilities-based project activities are very limited;
- These activities would in almost all circumstances be very likely to qualify for an exemption from CEQA; and
- The proposed process for reviewing the applicability of CEQA exemptions to Cityside's facilities-based projects is not only adequate for the Commission's purposes as CEQA Lead Agency but is also in the public interest because it enables Cityside to respond in a timely manner to requests for service without the delay or burden of a full CEQA review when such review is unnecessary.

We therefore approve Cityside's proposed process for Commission review of expected CEQA exemptions for construction projects undertaken pursuant to Cityside's full facilities-based authority, based on the specific facts of this case with the following modifications related to the Commission's Energy Division review and approval or disapproval of the proposed exemptions.

If the Energy Division disapproves Cityside's claimed CEQA exemption(s) and issues a letter of denial to Cityside, Cityside must either re-design the specific project and facilities and then reapply for a finding of exemption from CEQA, or file a formal application with the Commission seeking the requisite approval and full CEQA review, before commencing any construction activities.

Cityside shall not perform any full facilities-based construction activities without first obtaining a Notice to Proceed from the Energy Division or authorization by the Commission after the requisite environmental review.

We have previously determined that the public convenience and necessity require that competition be allowed in the provision of competitive local exchange service. *See* Rulemaking 95-04-043/Investigation 95-04-044. Granting this application will benefit the public interest by expanding the availability of technologically advanced telecommunications services within the state.

4. Financial Qualifications

To be granted a CPCN, an applicant for authority to provide full facilities-based and resold competitive local exchange services and full facilities-based and resold interexchange services must demonstrate that it has a minimum of \$100,000 cash or cash equivalent, reasonably liquid and readily available to meet the firm's start-up expenses.² In its December 24, 2021 response to a December 10, 2021 ALJ Ruling and its December 27, 2021 supplement, Cityside provided supporting documentation that it holds \$100,000. Since Cityside has provided documentation that it possesses a minimum of \$100,000 that is reasonably liquid and available, it has demonstrated that it has sufficient

² The financial requirement for Competitive Local Exchange Carriers (CLEC) is contained in D.95-12-056, Appendix C. The financial requirement for Non-Dominant Interexchange Carriers (NDIEC) is contained in D.91-10-041.

funds to meet its start-up expenses and has fulfilled this requirement. Cityside's financial documentation will be subject to verification and review by the Commission for one year to ensure that such funds are available.

In addition to demonstrating financial fitness, Cityside must also demonstrate it has an additional \$25,000, or an amount equal to the deposit required by AT&T California, Frontier California, Frontier Communications, Frontier Communications of the Southwest, Inc., and Consolidated Communications, available to Cityside for one year following certification.³ In addition to the \$100,000 discussed above, Cityside provided documentation in its December 24, 2021 response to a December 10, 2021 ALJ Ruling and its December 27, 2021 supplement that its certificate of deposit includes an additional \$25,000 to cover deposits that may be required in the future.

5. Technical Qualifications

To be granted a CPCN for authority to provide competitive local exchange and interexchange service, an applicant must make a reasonable showing of managerial and technical expertise in telecommunications or a related business.⁴ Cityside supplied biographical information on its management in Exhibit A to its application that demonstrates it has sufficient expertise and training to operate as a telecommunications provider.

In its application, Cityside verified that no one associated with or employed by Cityside as an affiliate, officer, director, partner, or owner of more

³ The requirement for Competitive Local Carrier (CLC) applicants to demonstrate that they have additional financial resources to meet any deposits required by underlying Local Exchange Carriers (LEC) and/or IECs is set forth in D.95-12-056, Appendix C. For NDIECs, the requirement is found in D.93-05-010.

⁴ D.95-12-056 at Appendix C, Rule 4.A.

than 10 percent of Cityside, or anyone acting in a management capacity for Cityside:

- (a) held one of these positions with a company that filed for bankruptcy; (b) been personally found liable, or held one of these positions with a company that has been found liable, for fraud, dishonesty, failure to disclose, or misrepresentations to consumers or others; (c) been convicted of a felony; (d) been (to his/her knowledge) the subject of a criminal referral by judge or public agency; (e) had a telecommunications license or operating authority denied, suspended, revoked, or limited in any jurisdiction; (f) personally entered into a settlement, or held one of these positions with a company that has entered into settlement of criminal or civil claims involving violations of §§ 17000 *et seq.*, §§ 17200 *et seq.*, or §§ 17500 *et seq.* of the California Business & Professions Code, or of any other statute, regulation, or decisional law relating to fraud, dishonesty, failure to disclose, or misrepresentations to consumers or others; or (g) been found to have violated any statute, law, or rule pertaining to public utilities or other regulated industries; or (h) entered into any settlement agreements or made any voluntary payments or agreed to any other type of monetary forfeitures in resolution of any action by any regulatory body, agency, or attorney general.⁵

Also, to the best of Cityside's knowledge, neither Cityside, or any affiliate, officer, director, partner, nor owner of more than 10 percent of Cityside, or any person acting in such capacity whether or not formally appointed, is being, or has been investigated by the Federal Communications Commission or any law enforcement or regulatory agency for failure to comply with any law, rule or order.⁶

⁵ These certifications are required by D.13-05-035, Ordering Paragraph 14.

⁶ *Id.*

For the above reasons, we find that Cityside is in compliance with the requirements of D.13-05-035.

6. Detariffed Status

Cityside has requested detariffed status and may be exempt from the requirement to file tariffs, provided Cityside complies with the consumer protection rules identified in D.98-08-031. Cityside states that it will offer its service on a non-discriminatory basis and at competitive rates but will do so through individual case basis contracts.

In the future, if Cityside decides to offer services that require a tariff or schedule, such as basic services,⁷ Cityside must submit proposed tariffs and/or user guides to the Communications Division via Tier 2 advice letters using the General Order (GO) 96-B advice letter process before initiation of service.

7. Map of Service Territory

To be granted a CPCN for authority to provide competitive local exchange service, an applicant must provide a map of the service territories it proposes to serve.⁸ In its application, Cityside provided a map of the location of its proposed service territory, in compliance with this requirement.

8. Rule 3.1(i) Statement

Rule 3.1(i) sets forth the requirement that a utility filing an application under Pub. Util. Code § 1001, provide a statement regarding GO 104-A, Section 2. Cityside states that it is not aware of any reportable matters pursuant to GO 104-A, Section 2. Cityside, therefore, has nothing to report under this rule.

⁷ Pursuant to D.12-12-038, Appendix A, Section II, parts a and b, basic service must be tariffed or scheduled.

⁸ D.95-12-056 at Appendix C, Rule 4.F.

On a going forward basis, though, Cityside must file all reports required of a public utility under Commission jurisdiction.

9. Expected Customer Base

Cityside provided its estimated customer base for the first and fifth years of operation in its application. Therefore, Cityside has complied with this requirement.

10. Request for Treatment as a Non-dominant Interexchange Carrier

Cityside requests treatment as a non-dominant interexchange carrier, which would include exemption from the requirements of Pub. Util.

Code §§ 816-830 concerning stocks and security and § 851 concerning the encumbrance and transfer of utility property when that encumbrance is for the purpose of securing debt. While the Commission has granted exemption from §§ 816-830 to others, exemption from § 851 is not commonly granted unless the exemption is expressly limited to the issuances of securities and transfers or encumbrances of a utility's assets for the purpose of securing debt.⁹ The Commission detailed its rules regarding exemption of non-dominant carriers in D.85-01-008, and subsequently modified them in D.85-07-081 and D.85-11-044. Cityside requests to provide service to business customers only. We grant Cityside's request for non-dominant interexchange carrier status, which provides an exemption from Pub. Util. Code §§ 816-830 concerning stocks and security as well as a limited exemption from § 851 in order to issue stocks and securities to secure debt, provided that it follows all rules detailed in the above referenced decisions.

11. Request for Exemption from the Requirement to Keep Books and Records in Accordance

⁹ See D.85-07-081; D.85-11-044; and D.97-01-015.

with the Uniform System of Accounts

Cityside requests exemption from any requirements to maintain its books and records in accordance with the Uniform System of Accounts specified in Title 47 I.E Part 32. As a competitive local exchange carrier, Cityside is not part of an incumbent local exchange carrier corporate entity and should therefore be exempted from the requirement to keep its books of account in conformance with the Uniform System of Accounts, as required for competitive local exchange carriers pursuant to D.99-02-038. We agree and cite D.07-04-024 as additional authority to do so.

12. Safety Considerations

With the adoption of the *Safety Policy Statement of the California Public Utilities Commission* on July 10, 2014, the Commission has, among other things, heightened its focus on the potential safety implications of every proceeding. We have considered the potential safety implications here. The Commission is satisfied that Cityside will meet the Commission's minimum safety goals and expectations of competitive local exchange carriers because: (1) Cityside has taken steps to meet the financial requirements as set forth in this decision for a facilities-based competitive local exchange carrier, and (2) Cityside is a public utility that is required pursuant to Pub. Util. Code § 451 to "... furnish and maintain such adequate, efficient, just and reasonable service, instrumentalities, equipment, and facilities, including telephone facilities ... as are necessary to promote the safety, health, comfort, and convenience of its patrons, employees, and the public."

13. Conclusion

We conclude that the application conforms to our rules for certification as a competitive local exchange and interexchange carrier. Accordingly, we grant Cityside a CPCN to provide full facilities-based and resold competitive local

exchange services in the service territory of AT&T California, Frontier California, Frontier Communications, Frontier Communications of the Southwest, Inc., and Consolidated Communications and full facilities-based and resold interexchange services in California subject to compliance with the terms and conditions set forth in the Ordering Paragraphs.

The CPCN granted by this decision provides benefits to Cityside and corresponding obligations. Cityside receives authority to operate in the prescribed service territory, and this authority enables Cityside, pursuant to Section 251 of the 1934 Communications Act, as amended by the 1996 Telecommunications Act (47 U.S.C. § 251), to interconnect with telecommunications carriers.¹⁰ This authority also enables Cityside to obtain access to public rights-of-way in California as set forth in D.98-10-058, and approved in *T-Mobile West LLC v. City and County of San Francisco*, 6 Cal. 5th 1107 (2019) subject to the CEQA requirements set forth in this decision.

In return, Cityside is obligated to comply with all Pub. Util. Code provisions, Commission rules, GOs', and decisions applicable to telephone corporations providing approved services. The applicable statutes, rules, GOs, and decisions include, but are not limited to consumer protection rules, tariffing, and reporting requirements. Moreover, Cityside is obligated to pay all Commission prescribed user fees and public purpose program surcharges as set forth in the Appendix B of this decision, to comply with CEQA, and to adhere to Pub. Util. Code § 451 which states that every public utility "...shall furnish and maintain such adequate, efficient, just, and reasonable service, instrumentalities, equipment, and facilities, including telephone facilities, as defined in § 54.1 of the

¹⁰ The California Pub. Util. Code uses the term "telephone corporation." Its counterpart in federal law is a "telecommunications carrier."

Civil Code, as are necessary to promote the safety, health, comfort, and convenience of its patrons, employees, and the public.”

14. Request to File Under Seal

Pursuant to Rule 11.4 of the Commission’s Rules of Practice and Procedure, Cityside has filed a motion for leave to file Exhibit F to the application as confidential material under seal. Cityside represents that the information is sensitive, and disclosure could place Cityside at an unfair business disadvantage. We have granted similar requests in the past and do so here.

15. Comments on Draft Decision

As provided by Rule 14.3 of the Commission’s Rules of Practice and Procedure and Pub. Util. Code § 311(g)(1), the draft decision of ALJ O’Rourke in this matter was mailed to the parties on _____. Comments were filed on _____.

16. Assignment of Proceeding

Darcie L. Houck is the assigned Commissioner and Shannon O’Rourke is the assigned ALJ in this proceeding.

Findings of Fact

1. Cityside is a telephone corporation and a public utility as defined in Pub. Util. Code § 234(a) and § 216(a).
2. Cityside’s proposed construction activities appear to fall within one or more CEQA categorical exemptions.
3. Cityside has a minimum of \$100,000 of cash or cash equivalent that is reasonably liquid and readily available to meet its start-up expenses.
4. Cityside has sufficient additional cash or cash equivalent to cover deposits that may be required by other telephone corporations in order to provide the proposed service.

5. Cityside's management possesses sufficient experience, knowledge, and technical expertise to provide local exchange services to the public.

6. No one associated with or employed by Cityside as an affiliate, officer, director, partner, agent, or owner (directly or indirectly) of more than 10 percent of Cityside, or anyone acting in a management capacity for Cityside: (a) held one of these positions with a company that filed for bankruptcy; (b) been personally found liable, or held one of these positions with a company that has been found liable, for fraud, dishonesty, failure to disclose, or misrepresentations to consumers or others; (c) been convicted of a felony; (d) been the subject of a criminal referral by judge or public agency; (e) had a telecommunications license or operating authority denied, suspended, revoked, or limited in any jurisdiction; (f) personally entered into a settlement, or held one of these positions with a company that has entered into settlement of criminal or civil claims involving violations of §§ 17000 *et seq.*, §§ 17200 *et seq.*, or §§ 17500 *et seq.* of the California Business & Professions Code, or of any other statute, regulation, or decisional law relating to fraud, dishonesty, failure to disclose, or misrepresentations to consumers or others; or (g) been found to have violated any statute, law, or rule pertaining to public utilities or other regulated industries; or (h) entered into any settlement agreements or made any voluntary payments or agreed to any other type of monetary forfeitures in resolution of any action by any regulatory body, agency, or attorney general.

7. To the best of Cityside's knowledge, neither Cityside, or any affiliate, officer, director, partner, nor owner of more than 10 percent of Cityside, or any person acting in such capacity whether or not formally appointed, is being, or has been investigated by the Federal Communications Commission or any law

enforcement or regulatory agency for failure to comply with any law, rule or order.

8. Cityside requested and is eligible for exemption from tariffing requirements and must observe the consumer protection rules adopted in D.98-08-031.

9. Cityside provided a map of the location of its proposed service territory.

10. Cityside has no information to report under Rule 3.1(i), which requires that a utility filing an application under Pub. Util. Code § 1001, provide a statement regarding compliance with GO 104-A, Section 2.

11. Cityside provided an estimate of its customer base for the first and fifth year of operation.

12. Pursuant to Rule 11.4, Cityside filed a motion for leave to file confidential material under seal, including Exhibit F to its application.

Conclusions of Law

1. Cityside should be granted a CPCN to provide full facilities-based and resold competitive local exchange services in the service territories of AT&T California, Frontier California, Frontier Communications, Frontier Communications of the Southwest, Inc., and Consolidated Communications and full facilities-based and resold interexchange services in California, subject to the terms and conditions set forth in the Ordering Paragraphs.

2. Cityside should be allowed to use the Energy Division 21-day CEQA exemption process.

3. Cityside, once granted a CPCN, should be subject to the applicable Commission rules, decisions, General Orders, and statutes that pertain to California public utilities.

4. Cityside should be granted an exemption from the requirement to file tariffs.

5. In the future, if Cityside decides to offer services that require a tariff or schedule, such as basic service, Cityside should submit proposed tariffs and/or user guides and/or schedules to the Communications Division via Tier 2 advice letters using the GO 96-B advice letter process before initiation of service.

6. Cityside should be granted nondominant carrier status, subject to Commission rules and regulations as detailed in D.85-010-08 and modified in D.85-07-081 and D.85-11-044.

7. Cityside's request for a limited exemption from Pub. Util. Code § 851 regarding the transfer or encumbrance of utility assets to secure debt should be granted.

8. Cityside's request for exemption from the requirement to maintain its books and records in accordance with the Uniform System of Accounts specified in Title 47 I.E Part 32 should be granted.

9. Cityside's motion to file under seal its Exhibit F to the application, should be granted for three years.

10. This proceeding should be closed.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Cityside Networks, Inc. to provide full facilities-based and resold competitive local exchange services in the territories of Pacific Bell Telephone Company d/b/a AT&T California (AT&T California), Frontier California Inc. (Frontier California), Frontier Communications of the Southwest, Inc., Citizens Telecommunications Company of California, Inc. d/b/a Frontier Communications of California

(Frontier Communications), and Consolidated Communications of California Company (Consolidated Communications, formerly SureWest Telephone), and full facilities-based and resold interexchange services in California, subject to the terms and conditions in this decision.

2. The corporate identification number assigned to Cityside Networks, Inc., U7394C, must be included in the caption of all original filings with this Commission, and in the titles of other pleadings filed in existing cases.

3. Cityside Networks, Inc. must file, in this docket, a written acceptance of the certificate granted in this proceeding within 30 days of the effective date of this decision. Written acceptance filed in this docket does not reopen the proceeding.

4. The certificate granted by this decision will expire if not exercised within 12 months of the effective date of this decision.

5. Cityside Networks, Inc. must notify the Director of the Communications Division of the date that competitive local exchange service is first rendered to the public, no later than five days after service first begins, by e-mail to cdcompliance@cpuc.ca.gov.

6. Cityside Networks, Inc. must obtain a performance bond of at least \$25,000 in accordance with Decision 13-05-035. The performance bond must be a continuous bond (*i.e.*, there is no termination date on the bond) issued by a corporate surety company authorized to transact surety business in California, and the Commission must be listed as the obligee on the bond. Within five days of acceptance of its certificate of public convenience and necessity authority, Cityside Networks, Inc. must submit a Tier 1 Advice Letter to the Communications Division, containing a copy of the license holder's executed

bond, and submit a Tier 1 Advice Letter annually, but not later than March 31 of each year, with a copy of the executed bond.

7. Cityside Networks, Inc. must not allow its performance bond to lapse during any period of its operation. Pursuant to Decision 13-05-035, the Commission may revoke a certificate of public convenience and necessity if a carrier is more than 120 days late in providing the Communications Division a copy of its executed performance bond and the carrier has not been granted an extension of time by the Communications Division.

8. In addition to all the requirements applicable to competitive local exchange carriers and interexchange carriers included in Attachments B, C, and D to this decision, Cityside Networks, Inc. is subject to the Consumer Protection Rules contained in General Order 168, and all applicable Commission rules, decisions, General Orders, and statutes that pertain to California public utilities.

9. Cityside Networks, Inc. must report intrastate revenue and pay the resulting public purpose program surcharges specified in Attachment B monthly, through the Commission's proprietary Telecommunications and User Fee Filing System (TUFFS) even if there are no revenues (\$0) and resulting surcharges to report and remit. Communications Division must issue a compliance directive to the Cityside Networks, Inc. primary contact, providing directions for reporting and remitting surcharges and the User Fee through the TUFFS system.

10. Cityside Networks, Inc. must pay an annual minimum user fee of \$100 or at the standard user fee remittance rate applied to the gross intrastate revenue, whichever is greater. The standard user fee remittance rate is posted on the Commission's webpage. Under Public Utilities Code § 405, carriers that are in default of reporting and submitting user fees more than 30 days after the quarterly user fee payment due dates of January 15th, April 15th, July 15th, and

October 15th, or more than 30 days after the January 15th due date for those utilities paying the annual minimum user fee of \$100, will be subject to penalties including suspension or revocation of their authority to operate in California.

11. Prior to initiating service, Cityside Networks, Inc. must provide the Commission's Consumer Affairs Branch with the name(s), address(es), e-mail address, and telephone number(s) of its designated contact person(s) for purposes of resolving consumer complaints. This information must be updated if the name(s), address(es), or telephone number(s) change, or at least annually.

12. Prior to initiating service, Cityside Networks, Inc. must provide the Commission's Communications Division with the name(s), address(es), e-mail address, and telephone number(s) of its designated regulatory/official contact person(s). This information must be provided electronically, using the "Contact Information Request Update" form at <https://www.cpuc.ca.gov/industries-and-topics/internet-and-phone> under Service Provider Requirements and Programs. This information must be updated if the name or telephone number changes, or at least annually by June 1 of each calendar year.

13. Cityside Networks, Inc. must submit an affiliate transaction report to the Director of the Communications Division, by e-mail to cdcompliance@cpuc.ca.gov, in compliance with Decision 93-02-019, on a calendar year basis using the form contained in Attachment D.

14. Cityside Networks, Inc. must submit an annual report to the Director of the Communications Division, by e-mail to cdcompliance@cpuc.ca.gov, in compliance with General Order 104-A, on a calendar-year basis with the information contained in Attachment C to this decision.

15. Cityside Networks, Inc. must submit an application for expanded authority to operate without Non-Dominant Interexchange Carrier status prior to construction of full facilities.

16. Cityside Networks, Inc.'s request for an exemption from the Uniform System of Accounts specified in Title 47 I.E Part 32 is granted.

17. The staff of the Commission's Energy Division is authorized to review, process, and act upon Cityside Networks, Inc.'s requests for a determination that its full facilities-based construction activities are exempt from the requirements of the California Environmental Quality Act.

18. If Cityside Networks, Inc. wishes to engage in full facilities-based construction activities and believes that these activities are exempt from California Environmental Quality Act, Cityside Networks, Inc. shall first apply to the Commission's Energy Division staff for a determination of exemption from California Environmental Quality Act by providing the Commission's Energy Division (Energy Division) with:

- a. A detailed description of the proposed project, including:
 - i. Customer(s) to be served;
 - ii. The precise location of the proposed construction project; and
 - iii. Regional and local site maps.
- b. A description of the environmental setting, including at a minimum:
 - i. Cultural, historical, and paleontological resources;
 - ii. Biological resources; and
 - iii. Current land use and zoning.
- c. A construction workplan, including:
 - i. Commission Preconstruction Survey Checklist – Archaeological Resources;

- ii. Commission Preconstruction Survey Checklist – Biological Resources;
 - iii. A detailed schedule of construction activities, including site restoration activities;
 - iv. A description of construction/installation techniques;
 - v. A list of other agencies contacted with respect to siting, land use planning, and environmental resource issues, including contact information; and
 - vi. A list of permits required for the proposed project.
- d. A statement of the California Environmental Quality Act exemption(s) claimed to apply to the proposed project; and
- e. Documentation supporting the finding of exemption from California Environmental Quality Act.
- f. The Energy Division will then review the submittal and notify Cityside Networks, Inc. of either its approval or its denial of Cityside Networks, Inc.'s claim for exemption from California Environmental Quality Act review within 21 days from the time that Cityside Networks, Inc.'s submittal is complete.

19. If the Energy Division approves Cityside Networks, Inc.'s claimed California Environmental Quality Act (CEQA) exemption(s), the staff shall prepare a Notice to Proceed and file a Notice of Exemption with the State Clearinghouse, Office of Planning and Research. If the Energy Division disapproves Cityside Networks, Inc.'s claimed CEQA exemptions, the staff shall issue to Cityside Networks, Inc. a letter which states the specific reasons that the claimed CEQA exemptions do not apply to the proposed project.

20. If the Energy Division disapproves Cityside Networks, Inc.'s claimed California Environmental Quality Act (CEQA) exemption(s), Cityside Networks, Inc. shall either re-design the specific project and facilities and then reapply for a finding of exemption from CEQA, or file a formal application with the

Commission seeking the requisite approval and full CEQA review, before commencing any full facilities-based construction activities.

21. In the future, if Cityside Networks, Inc. decides to offer services that require a tariff or schedule, such as basic service, Cityside Networks, Inc. must submit proposed tariffs and/or user guides to the Communications Division via Tier-2 advice letters using the General Order 96-B advice letter process before initiation of service.

22. Cityside Networks, Inc.'s request for a limited exemption from Public Utilities Code § 851 regarding the transfer or encumbrance of utility assets to secure debt is granted.

23. Cityside Networks, Inc.'s motion to file under seal its Exhibit F is granted for a period of three years after the date of this decision. During this three-year period, this information shall not be publicly disclosed except on further Commission order or Administrative Law Judge ruling. If Cityside Networks, Inc. believes that it is necessary for this information to remain under seal for longer than three years, Cityside Networks, Inc. may file a new motion showing good cause for extending this order by no later than 30 days before the expiration of this order.

24. Application 21-08-012 is closed.

This decision is effective today.

Dated _____, at Sacramento, California.

ATTACHMENT A

TARIFF DEFICIENCIES

THIS ATTACHMENT IS INTENTIONALLY LEFT BLANK

(END OF ATTACHMENT A)

ATTACHMENT B**REQUIREMENTS APPLICABLE TO COMPETITIVE LOCAL EXCHANGE CARRIERS AND INTEREXCHANGE CARRIERS**

1. Applicant must file, in this docket with reference to this decision number,¹ a written acceptance of the certificate granted in this proceeding within 30 days of the effective date of this order.

2. The certificate granted and the authority to render service under the rates, charges, and rules authorized will expire if not exercised within 12 months of the date of this decision.

3. Applicant is subject to the following fees and surcharges that must be regularly remitted. Per the instructions in Exhibit E to Decision (D.) 00-10-028, carriers authorized to operate in California shall report intrastate revenue and remit the resulting public purpose program surcharges specified as follows monthly, through the Commission's proprietary Telecommunications and User Fee Filing System (TUFFS) even if there is no intrastate revenue (\$0) and resulting surcharges to report and remit. Communications Division shall issue a compliance directive to the carrier's primary contact, providing directions for reporting and remitting surcharges and the User Fee through TUFFS.

- a. The Universal Lifeline Telephone Service Trust
Administrative Committee Fund (Pub. Util. Code § 277);
- b. The California Relay Service and Communications Devices
Fund (Pub. Util. Code § 2881; D.98-12-073);
- c. The California High Cost Fund-A (Pub. Util. Code § 275.6);
D.96-10-066, at 3-4, App. B, Rule 1.C);

¹Written acceptance filed in this docket does not reopen the proceeding.

- d. The California High Cost Fund-B (Pub. Util. Code § 276.5), D.96-10-066, at 191, App. B, Rule 6.F.; D.07-12-054);
- e. The California Advanced Services Fund (Pub. Util. Code § 281; D.07-12-054);
- f. The California Teleconnect Fund (Pub. Util. Code § 280; D.96-10-066, at 88, App. B, Rule 8.G);
- g. The User Fee provided in Pub. Util. Code §§ 431-435. The minimum annual User Fee is \$100, as set forth in D.13-05-035.

Note: These fees change periodically. In compliance with Resolution T-16901, December 2, 2004, Applicant must check the joint tariff for surcharges and fees filed by Pacific Bell Telephone Company (d/b/a AT&T California) and apply the current surcharge and fee amounts in that joint tariff on end-user bills until further revised. Current and historical surcharge rates can be found at

<https://www.cpuc.ca.gov/industries-and-topics/internet-and-phone/telecommunications-surcharges-and-user-fees/surcharge-rates>.

- i. Carriers must report and remit CPUC telephone program surcharges online using the CPUC TUFFS. Information and instructions for online reporting and payment of surcharges are available at <https://www.cpuc.ca.gov/industries-and-topics/internet-and-phone/telecommunications-surcharges-and-user-fees>. To request a user ID and password for TUFFS online filing and for questions, please e-mail Telcosurcharge@cpuc.ca.gov.
- ii. Carriers must submit and pay the PUC User Fee (*see* Item 3.g above) quarterly, through the Commission's TUFFS system within 15 days after the end of each calendar quarter (December 31, March 31, June 30 and September 30) and by the 30th day after the 15-day reporting and payment requirement to avoid a one-time 25 percent penalty. For questions regarding the User Fee, please email userfees@cpuc.ca.gov.

4. If Applicant is a competitive local exchange carrier, the effectiveness of its future competitive local exchange carrier tariffs is subject to the requirements of General Order 96-B and the Telecommunications Industry Rules (D.07-09-019).

5. If Applicant is a non-dominant interexchange carrier, the effectiveness of its future non-dominant interexchange carrier tariffs is subject to the requirement of General Order 96-B and the Telecommunications Industry Rules (D.07-09-019).

6. Tariff filings must reflect all fees and surcharges to which Applicant is subject, as reflected in Item 3 above.

7. Applicant must obtain a performance bond of at least \$25,000 in accordance with Decision 13-05-035. The performance bond must be a continuous bond (*i.e.*, there is no termination date on the bond) issued by a corporate surety company authorized to transact surety business in California, and the Commission must be listed as the obligee on the bond. Within five days of acceptance of its certificate of public convenience and necessity authority, Applicant must submit a Tier-1 Advice Letter to the Communications Division, containing a copy of the license holder's executed bond, and submit a Tier-1 Advice Letter annually, but not later than March 31, with a copy of the executed bond.

8. Applicant must not allow its performance bond to lapse during any period of its operation. Pursuant to Decision 13-05-035, the Commission may revoke a certificate of public convenience and necessity if a carrier is more than 120 days late in providing the Communications Division a copy of its executed performance bond and the carrier has not been granted an extension of time by the Communications Division.

9. Applicants providing local exchange service must submit a service area map as part of their initial tariff to the Communications Division.

10. Prior to initiating service, Applicant must provide the Commission's Consumer Affairs Branch with the name(s), address(es), e-mail address(es) and telephone number(s) of its designated contact person(s) for purposes of resolving consumer complaints. This information must be provided electronically, using the "Contact Information Request Update" form found at <https://www.cpuc.ca.gov/industries-and-topics/internet-and-phone> under Service Provider Requirements and Programs. This information must be updated if the name(s), address(es), and telephone number(s) change, or at least annually by June 1 of each calendar year.

11. In addition, Applicant must provide the Commission's Communications Division with the name(s), address(es), and telephone number(s) of its designated regulatory/official contact persons(s). This information must be provided electronically, using the "Contact Information Request Update" form found at <https://www.cpuc.ca.gov/industries-and-topics/internet-and-phone> under Service Provider Requirements and Programs. This information must be updated if the name(s), address(es), and telephone number(s) change, or at least annually by June 1 of each calendar year.

12. Applicant must notify the Director of the Communications Division, in writing submitted by email to cdcompliance@cpuc.ca.gov, no later than five days after service first begins, of the date that local exchange service is first rendered to the public.

13. Applicant must keep its books and records in accordance with the Generally Accepted Accounting Principles.

14. In the event Applicant's books and records are required for inspection by the Commission or its staff, it must either produce such records at the

Commission's offices or reimburse the Commission for the reasonable costs incurred in having Commission staff travel to its office.

15. Applicant must submit an annual report to the Director of the Communications Division at cdcompliance@cpuc.ca.gov, in compliance with GO 104-A, on a calendar-year basis with the information contained in Attachment C to this decision.

16. Applicant must submit an affiliate transaction report to the Director of the Communications Division at cdcompliance@cpuc.ca.gov, in compliance with D.93-02-019, on a calendar year basis using the form contained in Attachment D.

17. Applicant must ensure that its employees comply with the provisions of Pub. Util. Code § 2889.5 regarding solicitation of customers.

18. Within 60 days of the effective date of this order, Applicant must comply with Pub. Util. Code § 708, Employee Identification Cards, and notify the Director of the Communications Division of its compliance in writing, by email to cdcompliance@cpuc.ca.gov.

19. If Applicant is 90 days or more late in submitting an annual report, or in remitting the surcharges and fee listed in #3 above, and has not received written permission from the Communications Division to file or remit late: the Communications Division must issue a citation pursuant to Resolution T-17601. Failure to comply with the issued citation or timely appeal the citation may result in a revocation of the company's operating authority and/or a referral to the CPUC Consumer Protection and Enforcement Division (CPED) for enforcement action, which could result in additional fines, penalties, or other sanctions.

20. Applicant is exempt from Rule 3.1(b) of the Commission's Rules of Practice and Procedure.

21. Applicant is exempt from Pub. Util. Code §§ 816-830.
22. If Applicant decides to discontinue service or file for bankruptcy, it must immediately notify the Communications Division's Bankruptcy Coordinator.
23. Applicant must send a copy of this decision to concerned local permitting agencies no later than 30 days from the date of this order.

(END OF ATTACHMENT B)

ATTACHMENT C

ATTACHMENT C**ANNUAL REPORT**

In addition to the annual reports requirement pursuant to General Order 104-A, submit the following information electronically via email to cdcompliance@cpuc.ca.gov no later than March 31st of the year following the calendar year for which the annual report is submitted.

Failure to submit this information on time may result in a penalty as provided for in Pub. Util. Code §§ 2107 and 2108.

Required information:

1. Exact legal name and U # of the reporting utility.
2. Address.
3. Name, title, address, and telephone number of the person to be contacted concerning the reported information.
4. Name and title of the officer having custody of the general books of account and the address of the office where such books are kept.
5. Type of organization (*e.g.*, corporation, partnership, sole proprietorship, etc.).
If incorporated, specify:
 - a. Date of filing articles of incorporation with the Secretary of State.
 - b. State in which incorporated.
6. Number and date of the Commission decision granting the Certificate of Public Convenience and Necessity.
7. Date operations were begun.
8. Description of other business activities in which the utility is engaged.
9. List of all affiliated companies and their relationship to the utility. State if affiliate is a:
 - a. Regulated public utility.
 - b. Publicly held corporation.
10. Balance sheet as of December 31st of the year for which information is submitted.

11. Income statement for California operations for the calendar year for which information is submitted.
12. Cash Flow statement as of December 31st of the calendar year for which information is submitted, for California operations only.

For any questions concerning this report, please send an email to cdcompliance@cpuca.ca.gov with a subject line that includes: "CD Annual Reports."

(END OF ATTACHMENT C)

ATTACHMENT D

ATTACHMENT D
CALENDAR YEAR AFFILIATE TRANSACTION REPORT

Submit the following information electronically via e-mail to cdcompliance@cpuc.ca.gov no later than May 1st of the year following the calendar year for which the annual affiliate transaction report is submitted.

1. Each utility must list and provide the following information for each affiliated entity and regulated subsidiary that the utility had during the period covered by the Annual Affiliate Transaction Report.

- Form of organization (*e.g.*, corporation, partnership, joint venture, strategic alliance, etc.);
- Brief description of business activities engaged in;
- Relationship to the utility (*e.g.*, controlling corporation, subsidiary, regulated subsidiary, affiliate);
- Ownership of the utility (including type and percent ownership)
- Voting rights held by the utility and percent; and
- Corporate officers.

2. The utility must prepare and submit a corporate organization chart showing any and all corporate relationships between the utility and its affiliated entities and regulated subsidiaries in #1 above. The chart must have the controlling corporation (if any) at the top of the chart, the utility and any subsidiaries and/or affiliates of the controlling corporation in the middle levels of the chart, and all secondary subsidiaries and affiliates (*e.g.*, a subsidiary that in turn is owned by another subsidiary and/or affiliate) in the lower levels. Any regulated subsidiary must be clearly noted.

3. For a utility that has individuals who are classified as “controlling corporations” of the competitive utility, the utility must only report under the requirements of #1 and #2 above any affiliated entity that either (a) is a public utility

or (b) transacts any business with the utility filing the annual report excluding the provision of tariff services.

4. Each annual report must be signed by a corporate officer of the utility stating under penalty of perjury under the laws of the State of California (CCP 2015.5) that the annual report is complete and accurate with no material omissions.

5. Any required material that a utility is unable to provide must be reasonably described and the reasons the data cannot be obtained, as well as the efforts expended to obtain the information, must be set forth in the utility's Annual Affiliate Transaction Report and verified in accordance with Section I-F of Decision 93-02-019.

6. Utilities that do not have affiliated entities must submit, in lieu of the annual transaction report, an annual statement to the Commission stating that the utility had no affiliated entities during the report period. This statement must be signed by a corporate officer of the utility, stating under penalty of perjury under the laws of the State of California (CCP 2015.5) that the annual report is complete and accurate with no material omissions.

For any questions concerning this report, please send an e-mail to cdcompliance@cpuca.ca.gov with a subject line that includes: "CD Annual Reports."

(END OF ATTACHMENT D)